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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,291	10/25/2001	Frederick M. Morgan	C01104/70088(RFG/JT)	3587

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EXAMINER

TRAN, CHUC

ART UNIT PAPER NUMBER

2821

DATE MAILED: 12/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/040,291

Applicant(s)

MORGAN ET AL.

Examiner

Chuc D Tran

Art Unit

2821

AW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-38, 40-70 and 72 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 40-48 is/are allowed.
- 6) ☒ Claim(s) 2-8, 11, 18-25, 28-30, 32, 33, 49-56, 59-64, 66 and 67 is/are rejected.
- 7) ☒ Claim(s) 9, 10, 12-17, 26, 27, 31, 34-38, 57, 58, 65, 68-70 and 72 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 17.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 2-38, 40-70 and 72 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

2. Claims 3, 8, 19, 30, 41-45, 49, 52, 60, 64 and 67 are objected to because of the following informalities:

Claim 3, line 2, "a" (remotely) change to -- the --;

Claim 8, line 7, "a" (color) change to -- the --;

Claim 19, line 8, "a" (color) change to -- the --;

Claim 30, line 2, "a" (color) change to -- the --;

Claim 41, line 3, "a" (color) change to -- the --;

Claim 42, line 5, "a" (color) change to -- the --;

Claim 43, line 5, "a" (color) change to -- the --;

Claim 44, line 5, "a" (color) change to -- the --;

Claim 45, line 5, "a" change to -- the --;

Claim 49, line 5, "a" (color) change to -- the --;

Claim 52, line 5, "a" (color) change to -- the --;

Claim 60, line 4, "a" (user) change to -- the --;

Claim 64, line 2, "a" (color) change to -- the --;

Claim 67, line 2, "a" (first selector) change to -- the --;

Claim 67, line 4, "a" (second selector) change to -- the --.

Art Unit: 2821

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 43-45 and 49 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The examiner does not understand what the act b) comprises an act of. It appears from the illustration that the method for remotely controlling the variable color radiation comprises a step of... Applicant is encouraged to implement this type of language in the interest of improving it's clarity.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 49-52 are rejected under 35 U.S.C. 102(b) as being anticipated by Havel (USP. 6,133,722).

Regarding claims 49-52, Havel discloses a method of illuminating a display comprising a step of:

- illuminating the display with variable color radiation that is generated without requiring the use of a color filter (Col. 7, Line 25) (Col. 16, Line 58);

Art Unit: 2821

- remotely controlling the variable color radiation (Col. 32, Line 8);
- remotely execution of at least one illumination program (Col. 20, Line 26);
- remotely selecting a particular illumination program (Col. 20, Line 39);
- remotely adjusting the parameter associated with the illumination program (Col. 30, Line 34);
- indicating to a user a status of a parameter (Col. 4, line 9).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2-8, 11, 18-25, 28-30, 32-33, 53-56, 59-64, and 66-67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Havel (USP. 6,133,722).

Regarding claims 2-8, 11 and 18, Havel discloses a variable color digital display comprising a light source to be adapted to illuminate and to generate a remotely controllable variable color radiation output to illuminate the light without requiring the use of a color filter (Col. 16, Line 58) (Col. 7, Line 25) (Fig. 11), wherein the light source is controlled by a user (Col. 20, Line 31) and at least one processor (168) coupled to the storage device (136) to execute the at least one illumination program (Col. 31, line 50) (Col. 32, Line 12) (Fig. 87). However, Havel is silent on the limitation of the pool and the spa. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the pool and the spa in order to generate a remotely controllable variable color radiation output to illuminate the display

Art Unit: 2821

without requiring the use of a color filter, since it was known in the art (Col. 7, Line 50) (Fig. 87).

Regarding claims 19-25, 28-30, and 32-33, Havel discloses a variable color digital display comprising a light source to be adapted to illuminate and to generate a remotely controllable variable color radiation output to illuminate the light without requiring the use of a color filter (Col. 16, Line 58) (Col. 7, Line 25) (Fig. 11), wherein the light source is controlled by a user (Col. 20, Line 31) and at least one processor (168) coupled to the storage device (136) to execute the at least one illumination program (Col. 31, Line 50) (Col. 32, Line 12) (Fig. 87). However, Havel is silent on the limitation of the pool and the spa. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the pool and the spa in order to generate a remotely controllable variable color radiation output to illuminate the display without requiring the use of a color filter, since it was known in the art (Col. 7, Line 50) (Fig. 87).

Regarding claims 53-56, 59-64, and 66-67, Havel discloses a variable color digital display comprising a light source to be adapted to illuminate and to generate a remotely controllable variable color radiation output to illuminate the light (Col. 16, Line 58) (Fig. 11), wherein the two selectors to allow a user to remotely control at least one parameter associated with the variable color radiation generated by the light source (Col. 20, Line 18) (Col. 30, Line 34) and at least one processor (168) coupled to the storage device (136) to execute the at least one illumination program (Col. 31, Line 50) (Col. 32, Line 12) (Fig. 87). However, Havel is silent on the limitation of the pool and the spa. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the pool and the spa in

Art Unit: 2821

order to generate a remotely controllable variable color radiation output to illuminate the display without requiring the use of a color filter, since it was known in the art (Col. 7, Line 50) (Fig. 87).

Allowable Subject Matter

7. Claims 40-48 are allowed.

8. The following is an examiner's statement of reasons for allowance:

The prior art of record fails to appreciate the advantage offered by methods and apparatus for remotely controlled illumination of display with the following distinctive features such as set by all of the independent claims. In particular, the art of record fails to teach or fairly suggest constructing a method of remotely controlling the variable color radiation based on at least one audio signal, detectable condition, interruption in power supply to light source, to include remotely controlling the variable color radiation based on information obtained from a data network posses all of the distinctive features such as defined by independent claims 42-45.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

9. Claims 9-10, 12-17, 26-27, 31, 34-38, 57-57, 65, 68-70 and 72 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Inquiry

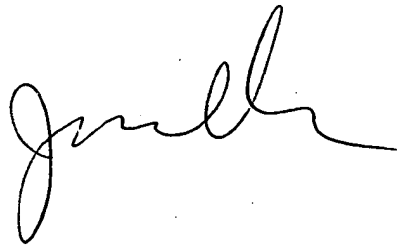
Art Unit: 2821

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuc D Tran whose telephone number is (703)306-5984. The examiner can normally be reached on M-F Flex hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on (703)308-4856. The fax phone number for the organization where this application or proceeding is assigned is (703)308-7722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0956.

TC
Dec 17, 1003

A handwritten signature in black ink, appearing to be 'J. Tran', written in a cursive style.